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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

TIMOTHY R. BELL, an individual; and JENNIFER BELL, an individual, Plaintiffs, v. COUNTRYWIDE BANK, N.A., d/b/a BANK OF AMERICA CORPORATION, a Delaware corporation; BAC HOME LOANS SERVICING, LP, a Texas limited partnership; RECONTRUST COMPANY, N.A., a national association; and DOES 1-5, Defendants.	**MOTION TO INTERVENE** Case No. 2:11-cv-00271-BSJ Judge Bruce S. Jenkins

The State of Utah, by and through the Utah Attorney General, seeks to intervene in the above-entitled matter pursuant to Rule 24(a) of the Federal Rules of Civil Procedure and 28 U.S.C. § 2403(b).

Rule 24(a) allows an unconditional right to intervene based upon a federal statute, or a claim of interest relating to a transaction that is the subject of this action. The State of Utah claims both. First, 28 U.S.C. § 2403(b) allows for the intervention by a state "for argument on the question of constitutionality." While ReconTrust does not specifically use the word "unconstitutionality" in their argument, that is essentially the essence of their argument. They are saying that the Utah statute is unconstitutional as applied to national banks acting in the State of Utah. The State also claims an interest in the subject matter of this action inasmuch as ReconTrust is claiming that the laws of Utah do not apply to national banks acting in a fiduciary capacity in the State of Utah. Their argument is that the laws of the State of Texas apply to a national bank acting in a fiduciary capacity in Utah.

Secondly, the State has an interest in protecting the integrity of its statutes. The State acknowledges that the National Bank Act 12 U.S.C. § 92a, preempts State law, but then the Act imposes a state law condition on the national banks, requiring them to follow the law of the state in which they act.

In the alternative, the State seeks permissive intervention under Rule 24(b).

The sole purpose of this intervention is for the State to protect the validity and application of its statutes to national banks acting in the State of Utah. The State does not seek to address other issues that may exist between Plaintiffs and Defendants.

A short Memorandum in Support of the State's Motion to Intervene accompanies this Motion.

DATED this 10th day of April, 2012.

MARK L. SHURTLEFF
UTAH ATTORNEY GENERAL

/s/ Jerrold S. Jensen
JERROLD S. JENSEN
Assistant Utah Attorney General
Attorney for Intervenor

CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing **MOTION TO INTERVENE** was served by electronically filing the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of:

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